



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 * Olympia, Washington 98504-0908 * (360) 753-1111 * Fax (360) 753-1112
Toll Free 1-877-601-2828 * E-mail: pdc@pdc.wa.gov * Website: www.pdc.wa.gov

May 31, 2006

DARLIN' BOUDREAU
33916 53RD AVE SOUTH
AUBURN WA 98001

Subject: Complaint filed against Peter von Reichbauer – PDC Case No. 06-252

Dear Ms. Boudreau:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received September 30, 2005, alleging that Peter von Reichbauer, an incumbent King County Council member and candidate for re-election in 2005, sponsored political advertising falsely implying that you endorsed his campaign for re-election.

PDC staff reviewed your complaint in light of the following statute:

RCW 42.17.530 prohibits a person from sponsoring with actual malice political advertising or an electioneering communication that contains a false claim stating or implying the support or endorsement of any person or organization, when in fact the candidate does not have such support or endorsement. "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity. Any violation must be proven by clear and convincing evidence.

You alleged that Mr. von Reichbauer sponsored political advertising that included a photograph of you, Yvonne Ward and Mr. von Reichbauer that you said falsely implied your support or endorsement of Mr. von Reichbauer's campaign.

We found that:

- On November 12, 2002, Pete von Reichbauer filed a Candidate Registration Statement declaring his candidacy for re-election to the King County Council in 2005.
- Mr. von Reichbauer's campaign printed 12,000 copies of a brochure in late August of 2005. The title of the brochure was "*Our Community. Our Concerns.*" It included a large picture of Mr. von Reichbauer at a community event with an

over-lay of five smaller pictures featuring him with many people in a variety of community settings.

- The variety of pictures illustrated the theme of the brochure, which was to show Mr. von Reichbauer's involvement in the community and the importance of listening to constituents. The photographs did not contain captions or text.
- The mailer was designed by a consultant using an album of photographs from public meetings and events. The consultant selected several pictures, including the photograph of you and Ms. Ward talking with Mr. von Reichbauer, without knowing either of you or your political affiliations. The campaign mailed 11,200 brochures shortly after they had been printed.
- Mr. von Reichbauer said after he received your letter informing him that you did not want your photograph used in future mailings, he immediately discontinued using the mailer and destroyed the remaining 800 copies of the brochure.

There is insufficient evidence to conclude that the picture of Mr. von Reichbauer talking with you and Ms. Ward at a public event was an implied endorsement of Mr. von Reichbauer's campaign. The picture was one of several photographs illustrating Mr. von Reichbauer's involvement in the community. None of the 17 people pictured were named, and the picture of you and Ms. Ward was selected at random to illustrate a point not related to an endorsement. When you objected to his use of the picture, Mr. von Reichbauer immediately discarded all remaining brochures. Thus, no enforcement action is warranted in this instance.

After a careful review of the alleged violation and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Peter von Reichbauer. Mr. von Reichbauer is being notified of the dismissal by separate letter.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll-free at 1-877-601-2828 or by e-mail at pstutzman@pdc.wa.gov.

Sincerely,



Vicki Rippie
Executive Director